



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

WMP
Docket No: 2614-02
26 August 2002

[REDACTED]

[REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 21 August 2002. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

You enlisted in the Marines on 21 February 1975 for four years at age 17. Your record reflects that you served without incident until 30 September 1975, when you received nonjudicial punishment (NJP) for an unauthorized absence from 16 to 24 September 1975, a period of eight days. The punishment imposed was a forfeiture of \$75 and 14 days of extra duty.

On 9 October 1975, you were placed in the voluntary self-referral for drug abuse rehabilitation program (VSRRP). This program enabled drug dependent personnel to obtain treatment while on active duty without the risk of receiving disciplinary action for their prior actions.

The record further shows that on 6 November 1975 you received NJP for disobeying a lawful written order. The punishment imposed was a forfeiture of \$25.

On 16 December 1975 you submitted a request for an undesirable discharge in lieu of trial by court-martial for two instances of possessing marijuana on 3 and 8 November 1975, and for using marijuana on 8 November 1975. Prior to submitting this request you conferred with a qualified military lawyer and were advised of your rights and warned of the probable adverse consequences of accepting such a discharge. On 29 December 1975 your request for an undesirable discharge for the good of the service to escape a trial by court-martial was approved by the discharge authority. As a result of such action, you were spared the stigma of a court-martial conviction and the potential penalties of a punitive discharge and confinement at hard labor. You received the undesirable discharge on 31 December 1975.

In its review of your application the Board carefully weighed all potentially mitigating factors such as your youth and immaturity and your contention that your misconduct was the result of not being sent to Vietnam. The Board concluded that the two NJP's and the two instances of drug abuse after your placement in the VSRRP program, and your request for discharge clearly warranted an undesirable discharge. The Board believed that considerable clemency was extended to you when your request for discharge to avoid trial by court-martial was approved since, by this action, you escaped the possibility of confinement at hard labor and a punitive discharge. Further, the Board concluded that you received the benefit of your bargain with the Marine Corps when your request for discharge was granted and you should not be permitted to change it now. Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by

the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director